

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CENACA WILLIS,

Petitioner,

Civil Action No. 2:10-cv-10096

Honorable Lawrence P. Zatkoff

v.

CATHY BAUMAN,

Respondent.

OPINION & ORDER DENYING A CERTIFICATE OF
APPEALABILITY AND DENYING PERMISSION
TO PROCEED ON APPEAL IN FORMA PAUPERIS

This matter is before the Court on Petitioner's pro se motion for certificate of appealability (Docket #24) and motion to proceed in forma pauperis on appeal (Docket #27).

On November 13, 2013, the Court entered an Opinion and Order denying Petitioner's petition for writ of habeas corpus. Therein, the Court also denied Petitioner certificate of appealability and permission to proceed on appeal in forma pauperis. The Court stated:

Before Petitioner may appeal this Court's dispositive decision, a certificate of appealability must issue. See 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22(b). A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). When a court rejects a habeas claim on the merits, the substantial showing threshold is met if Petitioner demonstrates that reasonable jurists would find the district court's assessment of the constitutional claim debatable or wrong. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). "A petitioner satisfies this standard by demonstrating that . . . jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). In applying that standard, a district court may not conduct a full merits review, but must limit its examination to a threshold inquiry into the underlying merit of Petitioner's claims. *Id.* at 336-37. "The district court must issue or deny a certificate of appealability when it enters a final order adverse to the applicant." Rules Governing § 2254 Cases, Rule 11(a), 28 U.S.C. foll. § 2254.

Petitioner has not demonstrated a substantial showing of the denial of a constitutional right. Accordingly, a certificate of appealability is not warranted in this case. The Court further concludes that Petitioner should not be granted leave to proceed in forma pauperis on appeal, as any appeal would be frivolous. See Fed. R. App. P. 24(a).

Petitioner's current motions are, in essence, motions for reconsideration of the Court's conclusions in the November 13, 2013 Opinion and Order as it pertained to issuing a certificate of appealability and permission to proceed in forma pauperis on appeal. As such, Petitioner's current motions are untimely. *See* E.D. Mich. L.R. 7.1(h)(1). More significantly, the Court finds that Petitioner has not: (1) presented the Court with "a palpable defect by which the Court and the parties and other persons entitled to be heard on the motion have been misled," and (2) "show[n] that correcting the defect will result in a different disposition of the case." *See* E.D. Mich. L.R. 7.1(h)(3). Finally, the Court does not find any of the statements or arguments offered by Petitioner in the current motions warrant the issuance of a certificate of appealability or permission to proceed in forma pauperis on appeal.

Accordingly, for the reasons set forth above, the Court DENIES Petitioner's motion for certificate of appealability (Docket #24) and motion to proceed in forma pauperis on appeal (Docket #27)

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
Lawrence P. Zatkoff
United States District Judge

Dated: January 16, 2014